

Part 3 Post-Award

Section 05 Revision of Budget and Program Plans

A. Principles

Purpose. This Grants Policy Directive (GPD) outlines HHS policies related to grantee-initiated budget and program changes. It specifies the responsibilities of grants management staff and program officials/project officers for review and response to requests to make changes to the approved project and/or budget.

Scope. This GPD supplements the provisions of 45 CFR Parts 74 and 92 and applies to all types of budget and program changes under HHS discretionary grant agreements.

B. Types and Sources of Requirements for Approval of Changes in Budget and Program Plans

Requirements for approval of changes in budget and program plans are generally found in governing statutes, program regulations, grants administration regulations at 45 CFR Parts 74 or 92 (and the cost principles incorporated by reference therein), and, as appropriate, in other terms and conditions of award.

The intent of prior approval requirements is, among other things, to ensure that a project as implemented retains a connection with the project as approved. For example, requiring prior approval for contracting or otherwise transferring responsibility for substantive programmatic activities is intended to ensure the integrity of project performance as well as management accountability. It primarily involves considering such things as the intended role of the grantee in programmatic performance, how performance accountability will be achieved, and whether such a change following award changes the project in a way not contemplated by the favorable independent review. It may also involve secondary considerations such as the manner in which the contractor/subrecipient was selected, financial accountability, and the business arrangement and costs of the contractor/subgrant relationships.

These requirements are not intended to allow micro-management on the part of awarding office staff by substituting the judgment of a Federal official for that of the recipient.

C. Policy

Grantees should be provided the maximum flexibility allowable to make changes in program plans and/or budgets consistent with governing statutory, regulatory, and policy requirements.

OPDIVs may adopt a "significant rebudgeting" or "cumulative rebudgeting" threshold above which grantees must obtain prior approval before engaging in additional post-award rebudgeting.

Many of the activities or costs that require awarding office prior approval require approval regardless of whether they are proposed as part of the application or in a separate request following award. Approval of an application including such activities or costs will be considered to have been approved by the awarding office unless the Notice of Grant Award (NGA) explicitly states they are not approved. Case-by-case or class determinations to waive or add a prior approval requirement (other than those established in or permitted by statute or regulations or based on a GPD requirement) are considered "deviations" subject to the requirements of GPD 1.03 unless:

The authority to waive a requirement on a class basis is contained in 45 CFR Part 74 or 92 (e.g., 45 CFR 74.25(d) which permits awarding agency discretion in waiving certain cost related and administrative prior written approvals; or, 45 CFR 92.30(c)(1)(ii) which provides awarding agency discretion to waive prior approval requirements for rebudgeting under certain circumstances); or,

The authority to override a class waiver on a case-by-case basis is contained in 45 CFR Part 74 or 92 (e.g., 45 CFR 74.25(d)(4) which permits awarding agency discretion in applying prior approval requirements to recipients normally exempted under expanded authorities).

D. Process Requirements

Awarding offices should require only the level of documentation needed to make a prospective judgment as to allowability and appropriateness for the given project/recipient.

Awarding offices must comply with the time frame specified in 45 CFR 74.25(i) for responding to prior approval requests for recipients covered by those regulations, and must establish a comparable time frame for responding to prior approval requests from governmental organizations.

Although grantees are required to obtain advance approval before incurring costs or undertaking activities that require awarding office prior approval, the awarding office can entertain a retroactive request and grant approval retroactively. Such a request must be examined on its merits, including whether the requested action is permissible under the governing statute, regulations, and policies (allowability) and, if applicable, whether it meets the cost principle tests of reasonableness and allocability.

A request for retroactive approval should not be disapproved solely because of timing. The grantee may be asked to explain its failure to request the approval in advance and to indicate what steps it has taken (or plans to take) to prevent a recurrence in the future. However, if a grantee has a documented pattern of submitting requests after-the-fact, the awarding office may disapprove a request on that basis or may consider appropriate enforcement actions or remedies (see GPD 3.07). If approved, the letter sent to the grantee should clearly specify that this is an exception and that the grantee will be expected to obtain prior approval, when required, in the future.

Awarding offices should ensure that grantees are reminded of their responsibilities under consortium arrangements or when subgrants are involved, to obtain any required prior approval from the awarding office before a consortium participant or subgrantee can undertake an activity or make a budget change requiring that approval.

OPDIVs should encourage electronic submission of prior approval requests, including e-mail and facsimile, but must ensure that the response timeliness requirements are met and safeguards are in place to ensure the authenticity of the request. Awarding office responses may also be provided electronically subject to the same time frame for response as hard-copy responses. Copies of both incoming e-mail requests and e-mail responses must be filed in the official grant file.

E. Responsibilities

Chief Grants Management Officer (GMO).

The Chief GMO is responsible for:

Maintaining a complete list of prior approval requirements at the OPDIV level and those which an awarding office may invoke or waive at its discretion. The listing should also indicate if or how these requirements apply to different types of grants/mechanisms/awards.

GMOs/Grants Management Specialists (GMSs).

GMOs/GMSs are responsible for:

Appropriately applying the variety of prior approval requirements that are potentially applicable to the program, types of recipients, and/or awards for which they have cognizance.

Ensuring that NGAs contain budgets (either shown on the NGA face page or in the approved application incorporated by reference in the "Remarks:" section of the NGA) allowing recipients to identify categorical commitments as well as the total approved budget amount (to serve as the "baseline" from which changes in budget are determined).

Ensuring that NGAs clearly indicate (by reference or otherwise) current prior approval requirements, and the applicability of any special exceptions, e.g., expanded authorities.

Clearly communicating to recipients the approval or disapproval of a prior approval request. If disapproved, the response should indicate the underlying basis. As specified in paragraph D.3. above, a request should not be denied solely on the basis that it is made after-the-fact and would require retroactive approval. If a retroactive request is denied, the GMO's letter should advise the grantee of its appeal right since the costs have already been incurred and the disapproval is equivalent to a disallowance. A grantee may not appeal disapproval of a prior approval request.

Project Officers/Program Officials (POs).

POs are responsible for:

Referring any incoming written prior approval requests received by the PO to the GMO/GMS for correspondence control purposes.

Providing requested input on the disposition of prior approval requests to the GMO/GMS within the specified time frame.

Having a working knowledge of types of costs/activities requiring prior approval.

Referring questionable situations to the GMO/GMS e.g., in response to a grantee request, determining whether a grantee is required to obtain awarding office prior approval in a particular situation.